

FILE NO. 001101

ORDINANCE NO. 182-00

1 [Street Vacation of Tenny Place and Sloan Alley]

2 ORDERING THE SUMMARY VACATION OF TENNY PLACE AND SLOAN ALLEY WITHIN
3 THE BLOCK BORDERED BY HOWARD, FREMONT, FIRST AND FOLSOM STREETS;
4 MAKING FINDINGS PURSUANT TO THE CALIFORNIA STREETS AND HIGHWAYS CODE
5 CHAPTER 4 SECTIONS 8330 ET SEQ.; ESTABLISHING CONDITIONS TO THE
6 EFFECTIVENESS OF THE VACATION; ADOPTING FINDINGS PURSUANT TO THE
7 CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING FINDINGS THAT THE
8 VACATION IS CONSISTENT WITH THE CITY'S GENERAL PLAN AND EIGHT PRIORITY
9 POLICIES OF CITY PLANNING CODE SECTION 101.1; AND RATIFYING ACTS AND
10 AUTHORIZING ACTIONS IN FURTHERANCE OF THE ORDINANCE.

11 Note: This entire section is new.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings. The Board of Supervisors of the City and County of
14 San Francisco finds, determines and declares as follows:

15 A. Wilson Cornerstone Properties, a California limited liability company (the
16 "Master Developer") has requested that the Board of Supervisors vacate Tenny Place and
17 Sloan Alley within the block bordered by Howard, Fremont, First And Folsom Streets (the
18 "Street Areas"), in connection with the proposed development by the Master Developer and its
19 joint venture partners, of an office project with associated retail uses and underground parking
20 on portions of each of the four corners of First and Howard Streets on parcels bordered by
21 Folsom, Mission, Fremont and Second Streets (the "First and Howard Project"). KFRITZ
22 Investors, LLC, a California limited liability company (the "Developer"), proposes to develop
23 that portion of the First and Howard Project within the block bordered by Howard, Fremont,
24 First and Folsom Streets. Master Developer has the option to purchase all of the rights of
25 Developer.

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1 B. The Street Areas are shown in the Department of Public Works' SUR Map
2 No.SUR-999, dated December, 1999 and are more particularly described in the legal
3 description attached to such map. A copy of such map and accompanying legal description is
4 on file with the Clerk of the Board of Supervisors in File No. 001101.

5 C. Section 8334 of the California Streets and Highways Code provides that the
6 legislative body of a local agency may summarily vacate an excess right-of-way of a street or
7 highway not required for street or highway purposes under certain circumstances. In
8 particular, Section 8334 provides that the legislative body of a local agency may summarily
9 vacate a portion of a street that: (a) lies within property under one ownership, and (b) does not
10 continue through such ownership or end touching the property of another. In addition, Section
11 8334.5 of the California Streets and Highways Code requires for a summary vacation that
12 there are no in-place public utility facilities that are in use and would be affected by the
13 vacation.

14 D. The Board of Supervisors finds that the Street Areas are excess rights-of-way of
15 a street or highway which are not required for street or highway purposes, subject to the
16 conditions described in this Ordinance. Furthermore, from and after the date this Ordinance is
17 recorded, the Street Areas will no longer constitute streets or highways.

18 E. The Board of Supervisors finds that the Street Areas (a) lie within property under
19 one ownership, and (b) do not continue through such ownership or end touching the property
20 of another.

21 F. The Board of Supervisors finds that there are no in-place public utility facilities
22 that are in use and would be affected by the vacation of the Street Areas.

23 G. The vacation of the Street Areas is necessary in connection with the
24 development of the First and Howard Project. The City proposes to sell and convey the Street
25 Areas to the Developer concurrently with the satisfaction of the conditions to the effectiveness

1 of the vacation contemplated hereby (and subject to certain other conditions set forth or to be
2 set forth in an Agreement for the Sale of Real Estate between the City and Developer a copy
3 of which is on file with the Clerk of the Board of Supervisors under File No. 001101
4 (the "Sale Agreement")).

5 H. On January 13, 2000, the City Planning Commission, by Motion No. 14957,
6 certified the Final Supplemental Environmental Impact Report for the First and Howard Project
7 ("Final EIR") as accurate, adequate and objective and in compliance with the California
8 Environmental Quality Act ("CEQA") and the regulations adopted thereunder.

9 I. This Board of Supervisors has reviewed and considered the information
10 contained in the Final EIR.

11 J. For purposes of compliance with CEQA, the vacation of the Street Areas is part
12 of the First and Howard Project examined in the Final EIR for which the Planning
13 Commission, by Motion Nos. 15005 and 15006, dated March 2, 2000, has adopted findings
14 with respect to the Final EIR as required by CEQA, which findings are on file with the Clerk of
15 the Board of Supervisors under File No. 001101, and which findings are incorporated
16 herein by this reference.

17 K. The Director of Planning, by letter dated April 14, 2000, found that the vacation
18 of the Street Areas is consistent with the City's General Plan, including the street vacation
19 criteria set forth in the Urban Design Element, and with the Eight Priority Policies of City
20 Planning Code Section 101.1, which letter is on file with the Clerk of the Board of Supervisors
21 under File No. 001101, and which letter is incorporated herein by this reference.

22 Section 2. The public convenience and necessity require that no easements or other
23 rights be reserved for any public utility facilities that are in place in the Street Areas and that
24 any rights based upon any such public utility facilities shall be extinguished automatically upon
25 the effectiveness of the vacation hereunder.

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1 Section 3. The public interest and convenience require that the vacation be done as
2 declared in this Ordinance.

3 Section 4. The Board of Supervisors hereby finds that the vacation of the Street Areas
4 is in conformity with the General Plan and is consistent with the Eight Priority Policies of
5 Planning Code Section 101.1 for the same reasons as set forth in the letter of the Director of
6 Planning dated April 14, 2000, and hereby incorporates such findings by reference as though
7 fully set forth in this Ordinance.

8 Section 5. The Board of Supervisors finds that the vacation of the Street Areas under
9 this Ordinance is part of the First and Howard Project described in the Final EIR and hereby
10 adopts and incorporates the findings under CEQA contained in Planning Commission Motion
11 Nos. 15005 and 15006 by this reference thereto as though such findings were fully set forth in
12 this Ordinance.

13 Section 6. The Board of Supervisors hereby finds that there is no need to prepare a
14 subsequent EIR because there have been no substantial project changes, no substantial
15 changes to project circumstances and no new information of substantial importance that
16 would change the conclusions set forth in the Final EIR.

17 Section 7. The Board of Supervisors has acquired jurisdiction to order such vacation.

18 Section 8. Pursuant to California Streets and Highways Code, Division 9, Part 3,
19 Chapter 4, Sections 8330 et seq. (Public Streets, Highways, and Service Easement Vacation
20 Law, Summary Vacation) and Section 787 of the San Francisco Public Works Code, the
21 Street Areas are hereby ordered summarily vacated in the manner described in this
22 Ordinance, subject to and effective upon the satisfaction of the following condition: the City
23 shall have determined that all of the conditions precedent to the City's conveyance of the
24 Street Areas to the Developer under the Sale Agreement (other than the effectiveness of the
25 vacation hereunder) have been satisfied (or waived by the City) pursuant thereto; and upon

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1 the satisfaction of such condition (as conclusively evidenced by a letter from the Director of
2 Property, or his designee, that such condition has been satisfied, including the satisfaction of
3 such condition through a simultaneous escrow with the closing of the sale of the Street Areas
4 by the City pursuant to the Sale Agreement) the Clerk of the Board of Supervisors and the
5 Director of Property shall be authorized and the Clerk shall be directed to record (or cause to
6 be recorded) a certified copy of the Ordinance ordering such vacation as provided in
7 Section 8335(a) of the California Streets and Highways Code, and thereupon such vacation
8 shall be effective without any further action by the Board of Supervisors.

9 Section 9. All actions heretofore taken by the officers of the City with respect to such
10 street vacations are hereby approved, confirmed and ratified, and the Mayor, Clerk of the
11 Board, Director of Property, and Director of Public Works are hereby authorized and directed
12 to take any and all actions which they or the City Attorney may deem necessary or advisable
13 in order to effectuate the purpose and intent of this Ordinance (including, without limitation,

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1 confirmation of satisfaction of any of the conditions to the effectiveness of the vacation of the
2 Street Areas hereunder and execution and delivery of any evidence of the same, which shall
3 be conclusive as to the satisfaction of such conditions upon signature by any such City official
4 or his or her designee).

5
6 RECOMMENDED:

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8 See file for signature

9 Harlan L. Kelly, Jr.
10 Acting Director of Public Works

11 See file for signature

12 Anthony J. DeLucchi
13 Director of Property

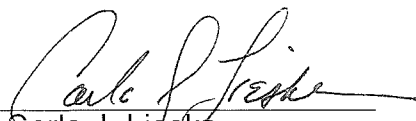
14 DESCRIPTION APPROVED:

15
16 See file for signature

17 Kathryn How
18 Acting City Engineer

19 APPROVED AS TO FORM:
20 LOUISE H. RENNE, City Attorney

21
22 By


23 Carla J. Lieske
24 Deputy City Attorney
25

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 001101

Date Passed:

Ordinance ordering summary vacation of Tenny Place and Sloan Alley within the block bordered by Howard, Fremont, First and Folsom Streets; making findings pursuant to the California Streets and Highways Code Chapter 4 Sections 8330 et. seq., establishing conditions to the effectiveness of the vacation; adopting findings pursuant to the California Environmental Quality Act; adopting findings that the vacation is consistent with the city's General Plan and Eight Priority Policies of city Planning Code Section 101.1; and ratifying acts and authorizing actions in furtherance of the Ordinance.

July 17, 2000 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Leno, Newsom, Teng,
Yaki, Yee

Excused: 1 - Kaufman

July 24, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Katz, Leno, Newsom, Teng,
Yaki, Yee

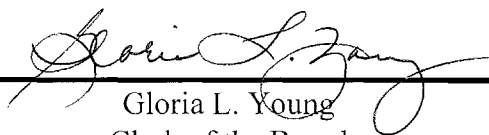
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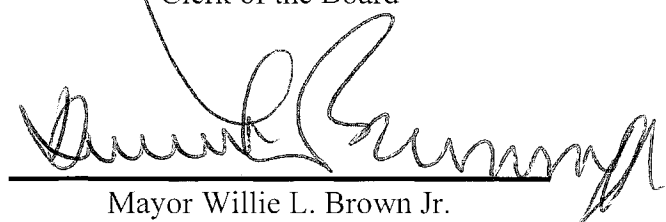
File No. 001101

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on July 24, 2000 by
the Board of Supervisors of the City and
County of San Francisco.

AUG - 3 2000

Date Approved


Gloria L. Young
Clerk of the Board


Mayor Willie L. Brown Jr.